IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MULTNOMAH

NIKE, INC., an Oregon corporation,

Plaintiff,

v.

DENIS DEKOVIC, an individual; MARC DOLCE, an individual; and MARK MINER, an individual,

Defendants.

No. 14CV18876

COMPLAINT

1) Breach of Contract
2) Breach of Duty of Good Faith and Fair Dealing
3) Breach of Duty of Loyalty
4) Misappropriation of Trade Secrets
5) Tortious Interference with Current and Prospective Contractual and Economic Relations
6) Fraud in the Inducement
7) Conversion/Replevin
8) Civil Conspiracy

JURY TRIAL DEMANDED

NOT SUBJECT TO MANDATORY ARBITRATION

ORS 21.160: $10,000,000

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Plaintiff Nike, Inc. ("Nike") by and through its undersigned counsel brings this action against Denis Dekovic ("Dekovic"), Marc Dolce ("Dolce"), and Mark Miner ("Miner") (collectively, "Defendants"), and alleges as follows:

I. INTRODUCTION

1. While still Nike employees, three now former Nike footwear designers, Defendants Dekovic, Dolce, and Miner, conspired to and developed for themselves, and then for Adidas, a strategic blueprint for a creative design studio to compete against Nike, began consulting with Adidas, misappropriated Nike trade secrets for use in their new business venture and attempted to destroy evidence of their scheme. They then boasted online about their new affiliation with Adidas to generate support for and lure other designers to join their enterprise. Nike will suffer irreparable harm if this scheme is permitted to continue and Nike's competitively valuable information is left in the hands of Defendants who have expressed their desire to financially gain from exploiting the stolen trade secrets, including by promoting their knowledge of Nike's trade secrets as a means of enticing Adidas to employ them. Nike thus requests that this Court enjoin Defendants from, among other things, using the misappropriated materials and order Defendants to immediately return those materials to Nike.

2. Defendants' plot sprung to life in April of 2014, when they began a campaign to promote their independent design studio venture by, among other things, buying thousands of phony social media followers to help create the false perception of buzz and popularity surrounding their design careers. These social media and other networking efforts succeeded in attracting Adidas, which is reportedly facing "enormous pressure" to turn around its struggling athletic footwear and apparel businesses in the wake of drastic declines in profit and market share. The conspirators pitched the concept of a supposedly innovative independent design studio to Adidas, which Defendants sweetened with promises to "bring a wealth of information and knowledge that will give Adi[das] the advantage" that Defendants knew Adidas could use to "hurt [its] competitor" Nike, including what Nike had strategically "planned for the next 2-3 years" in its "3 biggest business[es]"—running, sportswear, and football (soccer). The result was that Adidas effectively purchased Defendants' studio

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concept outright, so that the concept would belong to Adidas if the parties were to do business. This included a condition that Defendants become full time Adidas employees, not just consultants. But because formal employment agreements would be an obvious, blatant and overt breach of Defendants' agreements with Nike, Defendants became Adidas consultants in exchange for the promise of future employment. Although they had sacrificed a measure of independence, Defendants had ensured funding for their design studio concept, which they intend to use as vehicle for competing with Nike.

3. While still employed by Nike and at Adidas' request, Defendants began (in their own words) "do[ing] work for" Adidas as consultants to develop the blueprint for the design studio concept, including its strategic "vision," how it would be structured, how it would operate, where it would be located, its operating budget and staffing, how it would interact with the Adidas brand, and the "main objectives of the role[s]" in the organization for each designer, all in direct and flagrant violation of their noncompete agreements with Nike, which prevent each Defendant from "consulting for, or being connected in any manner with . . . Adidas" during their employment with Nike and for one year thereafter. In reality, the blueprint was largely a knockoff of one of Nike's own product design approaches, the Kitchen, Nike's Innovation lab, complete with identical or similar language and concepts. Adidas later inked employment contracts with all three designers, redubbing their new enterprise the "Brooklyn Creative Design Studio." Defendants shared with one another that they "d[id]n't really want to work for adi[das], but [had agreed to since] their money can allow us to shortly own our own business." Defendants viewed their time at Adidas as merely "a step towards" creating a truly independent design studio, and all agreed that "[a]s soon as we are ready we can terminate the agreement with Adidas and begin the studio."

4. Fearing that their work for Adidas while still employed at Nike was unlawful and in clear breach of their noncompete agreements with Nike, Defendants decided that they needed to get Adidas "to confirm and get in writing that Adidas will offer [them] legal

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support" and "cover [the] lawyer fees With Nike" if ever Nike discovered their disloyalty and deception. Defendants showed a copy of their Nike noncompete agreements to Adidas, which in turn promised Defendants that it would handle the situation by "paying [the] cost to help [them] leave", including "pay an outside law firm to help manage the situation" and represent them in an ensuing lawsuit. Adidas even arranged meetings with outside counsel hired by Adidas to reassure the conspirators. After one such meeting, Dekovic shared his perception with Dolce and Miner that the outside lawyers Adidas had hired "wanted to make some drawn out case [so their] firm [could] win a case against Nike."

5. With reassurances of legal support and lucrative job offers from Adidas in hand, Defendants made certain they would be able to fully deliver on their promises to Adidas to provide it with a competitive advantage. They did so by stealing a treasure trove of Nike product designs, research information, and business plans for use in Adidas' new design studio. Dekovic told Dolce and Miner that he would "get all the files [from his laptop]" and then "send [it] back" to Nike. And that is exactly what he did. Days before leaving Nike, Dekovic told Nike his laptop had stopped working, took that broken laptop to an independent contractor, and had the contents of his Nike-issued laptop copied, including thousands of proprietary documents relating to Nike's global football (soccer) footwear product lines. He then returned the broken laptop to Nike without uttering a word about the copy he had made. In addition, just three days before leaving Nike, Dolce sent an email to his personal email account with highly confidential design drawings related to an as-yet unreleased shoe designed for one of Nike's sponsored athletes. The material stolen by Defendants (the "Confidential Information") includes:

a. **Nike's Future Strategic Development Plans, Product Offerings, and Product Launches**. Extremely confidential and commercially sensitive master strategic business plans that reflect Nike's global football business strategies for the next three-to-four years, including specific strategies for

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competing directly against Adidas through 2016, many of Nike's key planned global football product launches (including footwear, uniforms and equipment), and where and how Nike has chosen to focus its resources;

b. **Nike's Unreleased Product Design Materials**. Drawings, models, renderings, sketches, material designs, and design schematics for Nike global football footwear and apparel and other athletic footwear products set to be released over the next two-to-three years, including models of team uniforms (kits) for the 2016 European Championships, and other footwear, uniforms, and accessories, reflecting details of each product's design, including materials, fabrics, cuts, and color strategies;

c. **Nike's Unreleased Product Technology**. Documents reflecting proprietary and highly confidential innovations in Nike's athletic apparel and footwear technology that have yet to be made public, including computer assisted design (CAD) drawings, and technical packs for as yet-unreleased global football footwear, material, and equipment innovations.

d. **Nike's Financial Product Performance Information**. Documents reflecting a non-public financial breakdown of footwear sales at the product level, including past performance data, gross margin expectations, and projected growth for the next 12 to 18 months;

e. **Nike's Marketing Campaign Materials**. Documents containing complete descriptions of Nike's footwear product marketing strategies, including promotion, in-store presentations, training, and public relations relating to specific past and future product launches and events, including story lines around new product launches, and plans for Nike-sponsored athletes and teams such the French, English, Dutch, Korean, United States and Brazilian

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national teams, as well as top club teams FC Barcelona, Manchester City, Paris St. Germain, Inter Milan and AS Roma;

f. **Nike's Virtual Testing Methodologies**. Documents describing Nike's highly confidential and proprietary virtual footwear product design and computer simulation testing methodology and other product development and testing plans; and

g. **Nike's Blueprints for Product Launches**. Documents reflecting all aspects of specific Nike product launches, amounting to a veritable step-by-step instruction manual for conducting a successful product launch.

All of this information is among the most important and highly confidential information in Nike's athletic footwear businesses, particularly its global football footwear business. Disclosure of any of this information would irreparably harm Nike, by, among other things, enabling a competitor to effectively undermine and counter Nike's performance in the athletic markets for the next three to four years, particular in the global football category.

6. Well aware that "[a]ll [of their] work computers, [and] work cell phones" would be full of months' worth of incriminating "information that [Nike] can acquire," Defendants then executed the final step in their scheme: they attempted to conceal their misdeeds by erasing the incriminating emails and text messages on their Nike-issued iPhones and laptops. Dekovic's laptop and iPhone had already been physically damaged (and the contents recovered and copied by Dekovic unbeknownst to Nike), but Dolce and Miner reset their iPhones in an attempt to make their text messages and emails inaccessible to Nike. Dolce also deleted most of his laptop computer files, including emails reflecting Defendants' scheme, and documents and data belonging to Nike. And Miner also erased incriminating emails and data from his laptop.

7. Defendants then resigned and turned in devices that they believed to be clear of evidence of their betrayals. On their final day at Nike, they took to social media to declare

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their new allegiance to Adidas and to promote the Adidas brand in further violation of their noncompete agreements with Nike. Defendants plastered their social media accounts with messages for their followers, expressing that they were "excited" to become part of the "three stripes" (a well-known Adidas trademark) and "Team Adidas 2015", all in the hopes of luring "other talented designers ... to follow" them to Adidas. While they publicly heralded Adidas' brand, Defendants were privately telling Nike of their love and respect for Nike's brand, and even how they hoped to return to work as consultants for Nike in a few years' time.

8. Dekovic, meanwhile, had all the while been working on another side footwear and sportswear business that he had kept hidden from Nike and, apparently, from his co-conspirators and Adidas. Dekovic had developed a "Moonwalker" line of footwear and sportswear while working at Nike based on, in part, existing vintage Nike designs, which he plans to commercialize in violation of his agreement to assign to Nike the rights to any product designs conceived while he was employed at Nike. With the help of outside investors, whom he begged to keep the business "confidential" and told that he "could be in hot waters for doing this," Dekovic is poised to launch the Moonwalker shoes and sportswear line in early 2015.

9. Nike's Confidential Information remains in the clutches of individuals who induced Adidas to hire them by promising to deliver a "wealth" of Nike's information to "give Adi[das] the advantage," and who are certain to exploit the trade secret information in conjunction with the Adidas-backed Brooklyn Creative Design Studio. There is no doubt that Defendants have already used and intend to further wrongfully use Nike's Confidential Information for their own benefit, and intend to allow Adidas to further use it for its own competitive advantage to Nike's detriment. Defendants have further stated their plans to continue consulting with Adidas prior to the expiration of their one-year noncompete period, including travel to Adidas' headquarters to meet with Adidas' design employees in the

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coming months and continuing to advise Adidas regarding the structure and operation of the Brooklyn Creative Design Studio. They have already even begun trying to contact Nike-sponsored athletes.

10. Nike faces irreparable harm in the form of lost market share of its global football and athletic footwear markets, lost sales, and lost goodwill if Defendants are not enjoined from this continued and ongoing wrongdoing, including from consulting for or launching a creative design studio with Adidas, connecting themselves to Adidas through social and traditional media, continued use of Nike's Confidential Information still in their possession in operating the design studio or otherwise, and launching the Moonwalker business.

11. Nike is entitled to temporary, preliminary, and permanent injunctive relief to remedy Defendants' ongoing unlawful conduct. As a result, Defendants should be:

a. temporarily, preliminarily, and permanently enjoined from using or benefiting, directly or indirectly, from the use of Nike's Confidential Information;

b. ordered to immediately return all copies of Nike's Confidential Information in their possession, custody, or control;

c. ordered to produce their personal devices and account passwords for forensic examination, at Nike's expense, by an independent forensic examiner;

d. ordered to immediately destroy and to certify under oath the destruction of all materials derived in any way, directly or indirectly, in whole or in part, from Nike's Confidential Information, including the strategic blueprint for their Brooklyn Creative Design Studio and any related materials;

e. ordered to impose a constructive trust on, and provide a detailed accounting of, all revenues derived from the use of Nike's Confidential Information;

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f. enjoined for a reasonable period of time from publicly associating or connecting themselves with Adidas, including via the internet, social media, or traditional press;

g. enjoined for a reasonable period of time from pursuing any other footwear design opportunities whether independently or in conjunction with Adidas or any other Nike competitor;

h. enjoined from negotiating with any investors, selling any products, or otherwise launching any business venture relating to the Moonwalker shoe and sportswear designs;

i. ordered to disgorge all unjust enrichment as a result of their taking and use of Nike's Confidential Information; and

j. ordered, jointly and severally, to pay Nike compensatory and punitive damages in an amount to be proven at trial.

II. JURISDICTION AND VENUE

12. Jurisdiction is proper in this Court because the claims arise out of conduct that occurred while Defendants were employed by Nike in Oregon. In addition, Defendants are each parties to noncompete, nondisclosure, and invention assignment and secrecy agreements with Nike in which each Defendant irrevocably and unconditionally consented to jurisdiction in this Court.

13. Venue is proper in Multnomah County because one or more of the Defendants currently resides in Multnomah County, and a portion of the Defendants' wrongdoing alleged herein occurred in Multnomah County.

III. PARTIES

14. Plaintiff Nike is an Oregon corporation with its principal place of business in Beaverton, Oregon.

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15. Dekovic is a Croatian citizen believed to be residing in Italy. He was employed by Nike in Beaverton, Oregon from November 2005 until September 22, 2014.

16. Dolce is a United States citizen residing in Oregon. He was employed by Nike from October 2005 until September 22, 2014.

17. Miner is a United States citizen residing in Oregon. He was employed by Nike from March 2008 until September 22, 2014.

IV. FACTUAL BACKGROUND

Nike and Adidas' Competitive Positions in the Sports Footwear and Apparel Markets

18. Nike is the world's leading manufacturer, designer, and distributor of athletic footwear, apparel, equipment, and accessories. Nike's sports footwear and apparel brand is number one in the world, realizing sales of over $25 billion in 2013. Nike has nearly 57,000 employees worldwide, including 8,000 at its World Headquarters in Beaverton, Oregon.

19. Nike and Adidas are key competitors in the global athletic apparel and footwear industries. In recent years, it has been reported that Adidas has lost market share to Nike and other competitors, including in the global market for football and other athletic footwear, and particularly in the North American market. Adidas' decline has accelerated in recent months. One news article recounts how Adidas "stunned investors" earlier this year after a "litany of troubles led Adidas to slash its net profit" forecasts. The media has also widely reported that Adidas "believes it faces enormous pressure" to turn around its business. Adidas CEO Herbert Hainer recently admitted that "we know we have to raise our game."

20. In contrast, Nike has substantially increased its share of the global athletic footwear marketplace over the past decade, rising to its place as today's world number one. Nike's success in the global athletic apparel and footwear markets reflects Nike's investment of tremendous time and resources into its business. Across all product categories, including global football, basketball, American football, and running footwear and apparel, Nike

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expends considerable time and resources designing, researching, developing, testing, producing, and marketing its products.

Nike's Development and Protection of Its Footwear Brands

21. Nike takes substantial measures to protect and ensure the secrecy of its competitively valuable and trade secret information, including, in particular, designs and plans for future releases of Nike products. Nike design employees are required to sign noncompete contracts obligating them to protect Nike's trade secret information. Nike further restricts physical and electronic access to its confidential research, plans, documents, and schematics concerning footwear and apparel designs to the limited set of employees who require access to that information to perform their specific job duties.

22. While Nike has always heavily invested in efforts to protect its proprietary and trade secret information, since 2012 Nike has invested more than $1.5 million dollars and a substantial amount of senior management time and attention in a company-wide security initiative known as "Keep It Tight" or "KIT"—a program designed to educate employees regarding the protection of Nike's proprietary and confidential information, including its product design information. The KIT initiative provides employees with on-line training on social media, information security, device (laptop/mobile) security, and workplace and situational awareness security. There has been, and continues to be, significant publicity of the KIT principles on postings throughout the Nike campus and on Nike's internal employee website and social media platforms. KIT serves as a reminder to all Nike employees of the great lengths to which Nike goes to prevent leaks of proprietary, confidential, and trade secret information and reinforces the company-wide culture of locking down such information.

23. Dekovic, Dolce, and Miner have been intimately involved for years in the design and planned future development of Nike's global football, running, sportswear, and basketball footwear and other product lines. Dekovic began working as a Senior Designer

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for Nike in 2005, and worked his way up first to Design Director for Nike's Global Football category in 2012, and then Senior Design Director in 2014. Dekovic was responsible for managing Nike's Global Football Footwear Design function, including creating and executing forward looking strategies for the football category, with a focus on footwear. As the most senior member of the Global Football footwear design team, Dekovic worked closely with Nike's executive leadership to plan and produce product innovations, seasonal footwear lines, and special products for high profile athletes and events such as the World Cup and Olympics. In addition to his strategic and leadership responsibilities, Dekovic had direct oversight and final approval over a team of footwear designers who designed and developed footwear products, primarily "boots" (cleated footwear) used by football leagues and teams worldwide, involving Nike's proprietary technologies and product details (color, detail, fit, performance, materials, graphics and trims). Several of the footwear models on which his team was working at the time of his resignation included proprietary and confidential Nike designs, innovative materials, and methods of manufacturing footwear.

24. Dolce began at Nike in October 2005 as a Senior Designer in Nike's Active Life Division. After his promotion to Design Director of Nike Sportswear in 2007, Dolce was responsible for setting the creative direction for and managing a team of Nike designers who designed seasonal lifestyle sports footwear for basketball, American football (NFL), and cross-training, including developing a lifestyle line of basketball shoes for current NBA stars like LeBron James, Kobe Bryant, and Kevin Durant, and up and coming stars such as Kyrie Irving. In this role, Dolce also became responsible for managing some of the largest sportswear franchises in Nike history, including Air Force One, The Blazer and The Dunk. In 2011, Dolce also became the Design Collections Lead for Nike Sportswear where he created updated versions some of Nike's best known vintage NFL, basketball, and other sportswear shoe designs, which are set for launch over the next several years. Dolce was also

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the lead product designer for another as-yet unreleased line of signature shoes for one of Nike's star sponsored-athletes.

25. Miner joined Nike in March 2008 as a footwear designer in Nike's Global Women's Training category. In 2011, he was promoted to Senior Footwear Designer of Nike Running. Miner was primarily responsible for designing and developing footwear for Nike's running and training lines, specializing in conceptualizing and designing performance running footwear. Miner was creatively involved in several extremely popular and iconic Nike product lines, such as NIKE Free, AirMax, and Zoom Air, including products in those lines that have yet to be commercially released.

26. By virtue of their positions at Nike, each Defendant was privy to the details of Nike's global footwear business, including specific planned future product design and development information and forward-looking strategic plans for the growth of Nike's footwear product lines worldwide. Defendants also had access to Nike's confidential and competitively valuable footwear marketing plans and performance materials, including sales and performance of Nike products relative to Adidas products. And Defendants had access to documents extensively summarizing Nike's research and testing on innovative new materials and designs – including information about structural design, product materials, and marketing strategies – that will not be made public for several years. The materials to which Defendants had access included copies of unlaunched product kits for Nike's football products, such as for Nike-sponsored teams competing in the UEFA European Football Championship in 2016, and in the 2016 Summer Olympics in Rio de Janeiro, Brazil.

27. Due to their knowledge of and access to Nike's competitively valuable and trade secret footwear information, Defendants agreed to take several measures to protect that information, including: (1) not to compete with Nike during and for a period of one year following their employment; (2) not to use or disclose any of Nike's confidential information and to return all copies of such information upon leaving Nike's employment; (3) not to

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solicit other Nike employees away from Nike to a competitor; and (4) to assign to Nike the rights to any inventions conceived during their employment.

28. Each of the Defendants signed a Covenant Not to Compete and Non-Disclosure Agreement ("Noncompete Agreement"), true and correct copies of which are attached hereto as Exhibits 1, 2, and 3. The Noncompete Agreements explicitly prohibit each Defendant from "consulting for, or being connected in any manner with" any Nike competitors, including Adidas, during the term of their employment with Nike and for a period of one year thereafter. Specifically, each Defendant agreed that:[1]

> **During EMPLOYEE'S employment** by NIKE, under the terms of any employment contract or otherwise, **and for 1 year thereafter**, (the "Restriction Period"), **EMPLOYEE will not** directly or indirectly, own, manage, control, or participate in the ownership, management or control of, or be employed by, **consult for, or be connected in any manner with, any business engaged anywhere in the world in the athletic footwear, athletic apparel or sports equipment and accessories business**, or any other business which directly competes with NIKE or any of its parent, subsidiaries, or affiliated corporations (a "Competitor")....**includ[ing], but ... not limited to: Adidas.**

29. The Noncompete Agreements further explicitly require Defendants not to disclose Nike's sensitive, confidential, proprietary, and trade secret information to Nike's competitors or any other-third party, and to return all copies of such information to Nike at the time their employment ended. Specifically, each Defendant agreed that:

> **During the period of employment by NIKE and for a period of two (2) years thereafter, EMPLOYEE will hold in confidence and protect all Protected Information and will not, at any time, directly or indirectly, use any Protected Information for any purpose outside the scope of EMPLOYEE's employment with NIKE or disclose any Protected Information to any third person** or organization without the prior written consent of NIKE. Specifically, but not by way of limitation, **EMPLOYEE WILL NOT EVER copy**, transmit, reproduce, summarize, quote, publish or make any commercial or other use whatsoever of **any Protected Information** without the prior written consent of NIKE. EMPLOYEE will also take

[1] Although the Complaint quotes Dolce's Noncompete Agreement specifically, the language in each of Defendants' Noncompete Agreements is substantially similar in all material aspects relevant to this lawsuit and true and correct copies of each agreement are attached hereto.

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> reasonable security precautions and such other actions as may be necessary to insure that there is no use or disclosure, intentional or inadvertent, of Protected Information in violation of this Agreement.

The Agreements broadly define "Protected Information" as "any and all information to which EMPLOYEE has access concerning NIKE projects and internal NIKE information" regardless of the form, including any "trade secrets and competitively sensitive business or professional information (regardless of whether such information constitutes a trade secret)" relating to Nike's product development activities, including the Confidential Information described above.

30. The Noncompete Agreements also prohibit Defendants from soliciting one another, or any other Nike employee, to leave Nike to serve as an independent consultant or employee of Adidas or any other competitor. Specifically, each Defendant agreed that:

> **During the term of this Agreement and for a period of one (1) year thereafter, EMPLOYEE will not** directly or indirectly, **solicit**, divert or hire away (or attempt to solicit, divert of hire away) to or for himself or any other company or business organization, **any NIKE employee**, whether or not such employee is a full-time employee or temporary employee and whether or not such employment is pursuant to a written agreement or is at will or any independent contractor working for Nike.

31. Each of the Defendants also signed an Employee Invention and Secrecy Agreement, true and correct copies of which are attached hereto as Exhibits 4, 5, and 6. Under the terms of the Invention and Secrecy Agreements, each Defendant "assign[ed] to Nike all...inventions...conceived" during his employment term with Nike relating "in any way" to Nike's "business...or products." Defendants further agreed to "disclose promptly and in writing to Nike all [such] inventions ... conceived or made by me during the term of my employment with Nike whether or not such inventions are assignable under this Agreement."

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32. These confidentiality and noncompete provisions, to which Defendants agreed, are essential to Nike maintaining its leading and competitive position in the global athletic footwear industry.

Defendants Set In Motion Their Plot to Turn on Nike

33. Defendants flouted their contractual obligations and fiduciary duties of loyalty to Nike, when—while still Nike employees—they developed for themselves, and then for Adidas, a strategic blueprint for a creative design footwear and sportswear studio to compete against Nike, misappropriated critical Nike trade secrets for use in their new business venture, attempted to destroy evidence of their scheme, began consulting with Adidas, and then boasted online about their new affiliation with Adidas to generate support for and lure others to join their creative design studio.

34. In April of 2014, Defendants began conspiring to leave Nike to pursue their plan of starting an independent creative design studio that would compete against Nike in the athletic footwear and sportswear markets. On April 29, 2014, Dekovic advised Miner and Dolce to use his personal email address for further communications. Thereafter, the three designers conspired amongst themselves using their personal email accounts and personal cell phones in an effort to avoid detection by Nike.[2]

35. It did not take long for Defendants to decide that the easiest way to get the job done would be to simply set up their own copycat version of Nike's innovating design lab, known as the Kitchen, by using the knowledge and information of Nike's design processes that they possessed by virtue of their positions and experience at Nike. The three were determined to turn their design studio into a reality at any cost, which they referred to at different times in their scheme by various code names such as "H-Design," the "Satellite,"

[2] However, Defendants accessed from and/or copied these communications to their Nike laptops, thereby granting Nike access to their communications pursuant to Nike's Electronic Communications Policy, which states in relevant part: "NIKE reserves the right to access the electronic communication systems and monitor data and messages within them, and to read, reject or remove any message, including attachments, composed, sent or received, at any time for any reason."

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and the "Design Center of Excellence." And, at one point they even tellingly proposed calling the venture the "Innovation kitchen" or "Zoo"—references to the names of Nike's design labs.

36. The challenges, however, that Defendants faced in attempting to launch their knock-off design studio without the backing of a major athletic apparel player were funding the operation, establishing credibility, and securing a sufficient client base to make the business sustainable. Rather than launching the studio fully on their own, Defendants decided to manipulate their social media accounts to artificially boost their stature in the athletic footwear industry in the hopes of attracting an investment partner to help back and finance their venture.

37. On May 18, 2014, Dekovic and Dolce agreed on a plan to pay for Instagram and Twitter followers to artificially inflate perceptions of their popularity and manufacture credibility among their social media followers and major sportswear companies including Adidas. Defendants proceeded to do just that: an analysis of Defendants' public Instagram and Twitter pages using third-party software that can detect purchased followers shows that more than 85% of Defendants' followers were purchased.

38. At the same time that he was plotting with Dolce and Miner to form a company to compete with Nike, Dekovic was all the while deceiving Nike into believing that he loved Nike, its brands, and that his long term career plan was to remain with Nike. Dekovic made it clear to other managers in the Nike design group with whom he worked that he had a strong desire to stay with Nike. Dolce and Miner similarly represented to other Nike employees that they planned to remain with Nike for the long term.

39. When an issue with Dekovic's visa status arose in late May 2014, Dekovic duped Nike into paying more than $50,000 to relocate him and his family to Italy in June on the false basis that he planned to continue his career at Nike for the foreseeable long term future. In reality, Dekovic knew all along that he was going to leave Nike within the year,

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one way or another. In fact, he gloated to his co-conspirators within a month of his move that "Italy is one of those" countries among the set of "countries where [Nike's] non compete is difficult to enforce."

Defendants Target Adidas as the Vehicle for Accomplishing Their Unlawful Scheme

40. At the same time that Defendants had hatched a plot to start their own version of Nike's design innovation lab, Adidas began actively attempting to recruit them to become designers for Adidas. After suffering steep global declines in its business, Adidas sought to expand and refocus its athletic footwear brands, and to compete more directly and effectively with Nike in those spaces. One principal step Adidas saw in reversing its decline was hiring top talented designers to improve its core product offerings.

41. Time was of the essence for Adidas. As widely reported in the press, Adidas had "slashed" its profit forecasts by over 30% (more than €300 million), reported a 6% overall decrease in quarterly revenue, and a 20% decrease in North American sales, and faced "enormous pressure" to turn around its business in the near term to satisfy uneasy investors. Herbert Hainer, Chief Executive Officer of Adidas, admitted to company shareholders and market analysts that "we know we have to raise our game."

42. Adidas' need to recruit talented designers and develop innovative new designs to drive product sales would prove to be perfect timing for Defendants, who were struggling to find a partner to make their consultancy vision a reality. Defendants saw an "opportunity" when Adidas came calling and they did not hesitate to "cash in" on it. Defendants discussed amongst themselves Adidas' profits and "market share declining sharply," agreeing that they did not "see adi[das] turni[n]g things around" in the future "without a big change."

43. Fueled by their desire to get "rich" and "cash in" on the Adidas opportunity, Defendants ultimately concluded that "what must be done is to join the two things"—the vision of an independent design studio and the funding and backing Adidas would provide—to create a viable business that could compete against Nike. Defendants thus decided that

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they would pitch their design studio concept to Adidas as that "big change"—an innovative "new" way of product design that would "give Adi[das] the advantage" in the footwear and sportswear markets. In exchange, Adidas would fund and back Defendants' design studio concept, providing the client base, credibility, and resources necessary to make the venture a commercial success.

44. Defendants were determined to stick together as a "team" of business partners in their planned new venture and agreed not to go to Adidas unless and until they all could make the move together. Dekovic promised Dolce: "I won't go to adi[das] without you." And they sold themselves to Adidas "as a team and not as individuals," agreeing with one another that "We are not presenting ourselves as 3 designers but as the best team in the world." At one point, they even discussed that "if Nike doesn't enforce [its] non compete on all of us" that one or two of them could start "earlier than [the] rest" and then the three would "split our non compete money with those person [sic] that don't get it." For better or for worse, Defendants were all in it together. And they remained in constant communication with one another, exchanging tens of thousands of messages regarding their plans in the months preceding their departure from Nike.

45. Defendants thus packaged their design studio concept and proceeded to pitch it to Adidas. Those discussions began in March 2014, when former Nike executive Brian Foresta, now Vice President, Design Global Basketball at Adidas, first reached out to Dolce and Dekovic with an invitation to get together to "discuss professional careers" sometime in the next few months. By June 2014, Defendants were fully engaged with Tauna Dean, a recruiter at Adidas and Eric Liedtke, a member of Adidas's executive board, in discussions relating to their design studio concept. Dekovic even personally presented their vision to Adidas CEO Herbert Hainer in June, which, according to Dekovic, "really impressed him."

46. Defendants' purportedly novel and innovative approach to product design was simply a trumped up knockoff of Nike's collaborative design approach. Of course, that had

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been their plan all long—to simply start their own design studio by copying Nike's proven success. Defendants' strategic outlines, plans, documents, and emails describing their design studio concept are replete with identical or similar language and concepts to those used in Nike's business, and in fact, the entire "collaborative" design paradigm and approach the Defendants planned to use in operating their venture is remarkably similar to one of Nike's design approaches, the Kitchen (Nike's innovation lab).

47. As Defendants would later discuss amongst themselves, none of the conspirators "really want[ed] to work for adi[das], but their money can allow us to shortly own our own business." They thus settled on a plan where they would work for Adidas for a few years, pool the money earned doing that, and then leave Adidas to start a truly independent design collective that would compete with both Adidas and Nike. In the end, Defendants decided Adidas was merely "a step towards" creating a truly independent version their design studio concept "in the sense that it allows us to escape from Nike and begin to network, prepare the field [and]. . . . As soon as we are ready we can terminate the agreement with Adidas and begin the [independent] studio."

Defendants Begin Consulting with Adidas While Still Employed by Nike

48. Adidas and the three conspirators hit it off immediately. Both sides could see the potential for future success and Defendants sold their design studio concept as just one of many "great possibilities" between them and Adidas. In fact, Adidas was so enthralled with the Nike design ideas that Defendants had artfully repackaged as their own, it effectively bought their studio concept outright, insisting that the concept belong to Adidas the parties were to do business. Defendants thus became Adidas consultants, in exchange for the promise of future employment, and their independent venture was eventually re-branded as the Adidas-backed "Brooklyn Creative Design Studio."

49. Despite the unambiguous contractual restrictions on associating or consulting with Adidas or any other competitor during and for a one year period following their Nike

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employment, Defendants began (in their *own* words) "work[ing] for" Adidas as consultants in early June 2014 regarding how to organize, set up, and operate the Brooklyn Creative Design Studio. For example, on June 29, 2014, Dekovic met with Adidas' then Design Director (and current Vice President) Brian Foresta to discuss the structure of what Defendants' team would be and how it would operate. Following this discussion, Defendants agreed to create for Adidas a "blueprint" setting out the details of the Brooklyn Creative Design Studio. As Defendants later discussed amongst themselves, they would try to sell the concept of the venture to Adidas, but convince Adidas to let them operate the studio as an independent entity, which "will allow us to start working immediately after resigning with Nike."

50. At or around the same time in June 2014, however, Defendants became concerned about the legal consequences of their consultation work for Adidas in light of, among other things, Defendants' noncompete and confidentiality agreements with Nike. They determined that they needed to get "Adidas [to] cover [the] lawyer fees With Nike," ultimately concluding that "We need to confirm and get in writing that Adidas will offer us legal support."

51. Defendants decided that they would send Adidas a copy of their noncompete agreements to review, and seek confirmation that Adidas was willing to hire lawyers to protect them. Miner asked the other two whether he should "ask Abby [Ornstein, Senior Director of Human Resources for Nike's Global Design Division] for my non compete?" Not wanting to risk tipping Nike off to their plans, Dolce replied "No way!!!" and Dekovic confirmed that there would be no need; he had a copy of his. On June 21, 2014, Dekovic sent Adidas a copy of his Nike Noncompete Agreement. Defendants then sought express assurances from Adidas that it would help them "manage" the ensuing legal fallout if they continued to consult with Adidas while Nike employees and during the one year period thereafter.

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52. As Defendants recounted amongst themselves, Adidas promised Defendants that it would handle the situation by "paying [the] cost to help us leave," including a promise to "pay for an external legal office" to represent the designers in an ensuing lawsuit. Adidas was so eager to sign Defendants that it even hired outside counsel and arranged for meetings between them and the Adidas-provided outside counsel to reassure the conspirators. After one such meeting with the outside lawyers hired by Adidas, Dekovic recounted his perception that the law firm welcomed a lawsuit by Nike against the three conspirators, explaining that he "got the feeling from this guy that he wanted to make some drawn out case to make his firm win a case against Nike."

53. Satisfied that they could count on Adidas to pay the legal costs associated with the fallout of their consultation, over the next several weeks Defendants continued to develop the blueprint for Adidas setting out how the collective design studio would operate. On July 16, while still Nike employees, Defendants shared with Adidas' representatives the trio's specific blueprint for the Brooklyn Creative Design Studio. Defendants' plan included details as to how the new "design collective" organization would be structured, how it would operate, where it would be located, how it would interact with the Adidas brand, and the strategic "vision" for the new collective and "main objectives of the role[s]" that each designer would hold within the collective.

54. Over the next few months Defendants continued to develop the studio blueprint design for Adidas, meeting with and communicating those details primarily to Brian Foresta, Eric Liedtke, and Adidas' Global Creative Director, Paul Gaudio. Their development of the studio eventually became so specific that it laid out the location within New York, the design of the physical space right down to the square footage, and the architectural design firm Defendants wanted to hire to build it. Their progress became so far advanced that they decided to begin "scout[ing] the area [to] see what's available" on the budget Adidas provided for the space. Defendants also developed with Adidas a "budget for

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[them] to have surrounding team members ready" and began developing the specific roles and job responsibilities for their employees, which they proposed at one point as two footwear designers, one to two graphic designers, one writer, one brand designer.

55. Defendants, however, grew annoyed that they had so far been uncompensated, save for the promise of future employment, for the consulting design work they had performed for Adidas. As they wondered in messages to one another, a day after receiving yet another request for from Adidas' Tauna Braun and Paul Gaudio to provide comments on their roles, where the studio would be, how it would be used, and other conceptual ideas: "how can you ask someone who you're not paying to do work for you[?]" Defendants thus pressed Adidas for something more immediate than the promised future employment: formal employment contracts under which they would be paid for the consulting work that they already had performed in creating the blueprint for the Brooklyn Creative Design Studio and for their future employment services.

56. On or about August 22, Adidas presented Defendants with lucrative offers of full-time employment. Although Defendants had initially pushed to remain independent consultants with Adidas, in the hopes of retaining the creative influence and control that they might lack as employees of Adidas, eventually Adidas made clear that it would not fund Defendants' venture unless Defendants ceded a greater measure of control over the business. Defendants grudgingly became Adidas employees, in the end abandoning their once stated desire for independence so that they could simply "cash in" on the sale of the design studio concept to Adidas.

57. In fact, in subsequent discussions with Adidas, the three designers were able to negotiate better terms and greater compensation by emphasizing the benefits to Adidas of hiring them and leveraging their status as Nike designers. Dekovic promised Adidas that by hiring all of the Defendants, Adidas would gain "the advantage" of the Nike knowledge and information that Defendants would bring with them. Tellingly, Defendants discussed among

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themselves, in the context of their Adidas negotiations, leveraging the critical Nike information they possessed, including the product launches and other strategic moves Nike had "planned for the next 2-3 years" in its "3 biggest business[es]"—running, sportswear, and football.

58. This is not a case where Defendants simply applied and interviewed for pre-existing roles at Adidas, and discussed basic dates and terms of future employment. Rather, at Adidas' request and while still employed at Nike, Defendants actively consulted with Adidas to create the very positions that they would hold at Adidas, the very design collective that they would operate and control at Adidas, the very design of the physical space in which they would work, and the very details of the organizational structure, operation, and fit within the Adidas brand. Defendants delivered all of the above in a precise and independently valuable blueprint for starting a collective design studio to compete with Nike – all based on Nike's proven successful model. Even if Defendants had never gone to work for Adidas, Adidas would still be able to set up the studio to compete with Nike.

59. Defendants' consultation and work for Adidas while they were still Nike employees did not stop with the creation of the Brooklyn Creative Design Studio. In fact, Defendants requested arrangements for Adidas to pay for "2 trips and travel to start building vision and connections" for the studio during the one-year period following their Nike employment. Defendants also continued to attend key product innovation and design meetings, and football, running, and sportswear strategy planning sessions across the globe all the while knowing (unbeknownst to Nike) that they were now working for Adidas and no longer loyal to Nike. Adidas had essentially purchased, by proxy through Defendants, access to the highly confidential and trade secret Nike product information and strategic plans discussed in these meetings and strategy sessions.

60. Further demonstrating that Defendants have no intention of waiting out their contractual noncompete periods, over the past few weeks (after leaving Nike) Dekovic has

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already begun contacting Nike employees in an attempt to secure contact information for key Nike-sponsored athletes and has also been caught trying to solicit those same athletes through social media.

61. Defendants' communications to one another startlingly reveal the fact that they knew all along that what they were doing was illegal, and feared that Nike might discover their unlawful scheme. For example, Miner told Dekovic and Dolce that he "Wish[ed] [they] both were using personal phones" and suggested that "we should just communicate on whats[ap]p" (an iPhone application used to send private messages). The three frequently cautioned one another with warnings such as to "stay off text" and to be "very careful ...[n]ot to raise suspicions" at Nike with their behavior. And they conducted email communications over their personal yahoo accounts so as to avoid detection by Nike. They nonetheless accessed all of this media over the Nike owned and provided laptops or phones (or copied it onto these Nike owned devices), granting Nike the right to read their communications, including the attachments.

Defendants Misappropriate, Misuse, and Retain Nike's Confidential Information

62. In making the final sale of their plan for the Brooklyn Creative Design Studio to Adidas, the conspirators promised Adidas that "we also bring a wealth of information and knowledge that will give Adi[das] the advantage," which Defendants knew Adidas could use to "hurt [its] competitor" Nike.

63. These were not idle promises. The conspirators took overt acts to ensure that they could deliver the competitively valuable information as promised. Dolce and Miner told Dekovic that he could "always remove [his laptop] H[ard] D[rive]" and then send the laptop "back to Nike." But Defendants concluded that might be too suspicious and so Dekovic told Dolce and Miner instead that he could "get all the files" from his laptop and then "send [it] back" to Nike. And that is exactly what he did. Less than two weeks before leaving Nike, Dekovic had the entire contents of his Nike-issued laptop copied onto a

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bootable recovery disk, complete with thousands of proprietary documents including Nike's global football footwear product designs and business and marketing plans for the next three to five years.

64. Dekovic then returned his laptop to Nike, telling Nike that the laptop had been accidentally damaged. Dekovic, however, neglected to inform Nike that he had nonetheless had the contents of his laptop copied onto a disk and failed to return that copy to Nike. Instead, he left Nike with the impression that the computer had been broken and unused since early September.

65. Just three days before leaving Nike, Dolce emailed to his personal email account a computer .zip file containing highly confidential documents, including design drawings related to an as-yet unreleased shoe designed for one of Nike's endorsed athletes.

66. The Confidential Information stolen from Dekovic's and Dolce's laptops includes:

a. **Nike's Future Strategic Development Plans, Product Offerings, and Product Launches.** Extremely confidential and commercially sensitive master strategic business plans that reflect Nike's global football business strategies for the next three-to-four years, including specific strategies for competing directly against Adidas through 2016, many of Nike's key planned global football product launches (including footwear, uniforms and equipment), and where and how Nike has chosen to focus its resources;

b. **Nike's Unreleased Product Design Materials.** Drawings, models, renderings, sketches, material designs, and design schematics for Nike global football footwear and apparel and other athletic footwear products set to be released over the next two-to-three years, including models of team uniforms (kits) for the 2016 European Championships, and other footwear, uniforms,

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and accessories, reflecting details of each product's design, including materials, fabrics, cuts, and color strategies;

c. **Nike's Unreleased Product Technology**. Documents reflecting proprietary and highly confidential innovations in Nike's athletic apparel and footwear technology that have yet to be made public, including computer assisted design (CAD) drawings, and technical packs for as yet-unreleased global football footwear, material, and equipment innovations.

d. **Nike's Financial Product Performance Information**. Documents reflecting a non-public financial breakdown of footwear sales at the product level, including past performance data, gross margin expectations, and projected growth for the next 12 to 18 months;

e. **Nike's Marketing Campaign Materials**. Documents containing complete descriptions of Nike's footwear product marketing strategies, including promotion, in-store presentations, training, and public relations relating to specific past and future product launches and events, including story lines around new product launches, and plans for Nike-sponsored athletes and teams such the French, English, Dutch, Korean, United States and Brazilian national teams, as well as top club teams FC Barcelona, Manchester City, Paris St. Germain, Inter Milan and AS Roma;

f. **Nike's Virtual Testing Methodologies**. Documents describing Nike's highly confidential and proprietary virtual footwear product design and computer simulation testing methodology and other product development and testing plans; and

g. **Nike's Blueprints for Product Launches**. Documents reflecting all aspects of specific Nike product launches, amounting to a veritable step-by-step instruction manual for conducting a successful product launch.

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67. Defendants have not returned to Nike these wrongfully obtained copies of Nike's Confidential Information. And, in the course of discussing their deals with Adidas, Defendants have unequivocally expressed their willingness to deliver up Nike's confidential information for Adidas' competitive advantage, and no doubt intend to use Nike's Confidential Information to benefit themselves and Adidas in connection with the Brooklyn Creative Design Studio.

Defendants Erase and Destroy Evidence and Resign From Nike

68. In the days before they left Nike, Defendants tried to cover their tracks by erasing incriminating emails and text messages from their Nike-issued iPhones and laptops. Defendants were well aware of the fact that "[a]ll [of their] work computers, [and] work cell phones" would be full of months' worth of "information that [Nike] can acquire" relating to their illegal scheme to compete with Nike. Defendants thus decided to take no chances and attempted to destroy all of the incriminating evidence on their Nike-issued work devices.

69. Just before leaving Nike, Defendants ordered new personal mobile devices and moved their cellular accounts from Nike to their personal responsibility in an effort to hide the evidence of their scheming. Dolce and Miner then reset their Nike phones in an attempt to make their text messages and emails inaccessible to Nike once the phones were returned to Nike inventory. Dolce also deleted most of his laptop computer files, including emails reflecting Defendants' scheme, and documents and other data belonging to Nike. Miner similarly took steps to erase incriminating emails and other data from his laptop. Dekovic did not erase his laptop and phone, wrongfully believing that both items had been damaged so badly that Nike could not access their contents.

70. Defendants then resigned from Nike and turned in devices that they believed to have been expunged or clear of evidence of their betrayals.

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Defendants Help Adidas Leverage Their New Allegiance to Attract Other Designers

71. During their negotiations with Adidas, Defendants had concluded that Adidas "need[ed] us bad and for us to influence other people to come" and determined that they could use that fact to their advantage. Thus, despite knowing full well and discussing amongst themselves the fact that "It is illegal for us to silicate [sic] nike employees to go w[ith] us to Adidas now as employees and during the next year," (even indirectly) Defendants did just that.

72. In exchange for agreeing to "influence other people to come" Defendants extracted more money from Adidas during their contractual negotiation. As they put it "the price goes up" if Defendants agreed to help solicit and attract other Nike employees on Adidas' behalf. And they did, agreeing to tell Adidas that "We will bring more talented designers to Adidas" with them and then targeting several Nike employees, including Nike designers.

73. In addition to targeting Nike designers on Adidas' behalf, Defendants also settled on the idea of highly publicizing their departure from Nike as a means of indirectly "influenc[ing] other" designers away from Nike to join the new Adidas-led business. In the weeks before they resigned, Defendants discussed whether they should announce at the time they left Nike that they were going to work for Adidas. Defendants believed that "If we say [we are going to] Adi, they can use our names to recruit." Defendants thus decided to announce their departure and association with Adidas, to enable "Adidas [to] leverage [the announcement] to get other talented designers to want to follow our lead." They expressed confidence that Adidas would "clear space" for them by removing existing Adidas employees (e.g., "like James") who could get in their way. Given this probability, they concluded that they would need to be careful of making other Adidas employees "paranoid [that] a lot of people [] will lose [their] jobs."

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74. Undeterred by the clear one-year non-solicitation restrictions in their contracts, Defendants determined it was important to provide Adidas with *immediate* leverage to recruit other designers. As they discussed amongst themselves, recruitment efforts would take too long if they observed the one-year period in their agreements. Dekovic told Dolce and Miner that: "If we get there in 1yr [and] then start to tell other designers to come that would be another year until they arrive because of there [sic] non competes."

75. Immediately upon quitting Nike, therefore, Defendants plastered their social media accounts, including Instagram and Twitter, with messages for their followers that Defendants were "excited" to become part of "three stripes" and "Team Adidas 2015" and repeatedly displaying "///"—a well-known Adidas logo and trademark:

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76. Defendants did so despite knowing full well that their noncompete agreements with Nike prohibited them from "being connected in any manner with....Adidas" for a full-one-year period after leaving Nike's employment. Defendants have continued to breach their noncompete obligations by advertising their connections with Adidas through the press and social media even today.

77. Even while publicly promoting and associating with the Adidas brand in the days after they quit, each Defendant privately assured Nike that he would abide by the terms of his Noncompete Agreement and that he had returned all confidential, proprietary, and trade secret Nike information—knowing full well that they had not. Dekovic even went so far as to tell Nike employees that he had loved working at Nike, had tremendous respect for the company and the brand, and that he only planned to spend a few years' time at Adidas and hoped to eventually come back to Nike to work as a design consultant.

78. Adidas also made use of Defendants' departure, stating that it anticipated that Defendants and their Brooklyn Creative Design Studio would "[d]rive design direction for the brand and elevate the company's direct interaction with consumers."

79. Adidas announced that it had created a "new" and "innovative" design approach with Defendants, rather than calling the new Creative Design Studio what it truly was: an artful repackage of Nike's design approach. In statements attributed to him at the time, Adidas' Global Creative Director Paul Gaudio, who had been meeting with Defendants regarding the details of the studio throughout their recruitment by Adidas, remarked that: "The Brooklyn Creative Studio will be a small but essential operation aimed at exploring design direction for the brand. This facility will be an open source creative center allowing us to connect and collaborate with consumers in a way we've never done before."

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Defendant Dekovic's Theft of Nike's Inventions and Designs

80. Meanwhile, Dekovic had been working on yet another side footwear and sportswear business conceived while he was employed at Nike, and which he had kept hidden not only from Nike, but apparently also from his co-conspirators and Adidas.

81. All the while he was negotiating with Adidas, and during the time of his employment at Nike, Dekovic had been drawing up plans for a "Moonwalker" shoe and sportswear design, which he had based in part on the design of existing vintage Nike footwear and simply rebranded as a Michael Jackson inspired product line. The moniker for the business derived from the dance move known as the "moon walk" that Jackson had popularized in the 1980s. But the name was the only original aspect of the business: PowerPoint presentations containing drawings for three shoes in the proposed product line reveal that two of the designs are essentially copies of vintage Nike footwear.

82. Dekovic then methodically secured outside investors in the business by promising lucrative returns on Moonwalker product sales. In emails to investors while still a Nike employee, Dekovic and his business advisors described his vision for positioning Moonwalker as a "leading sportswear brand," that would compete with Nike's product offerings and included detailed plans for product launches in 2015 to 2017. Dekovic has projected Moonwalker's gross profits to be $93 million in the first six years of business, which he stands to reap at Nike's expense.

83. Dekovic knew full well what he was doing was a blatant violation of his noncompete, confidentiality, and assignment agreements with Nike. He repeatedly told prospective investors and business advisors of the need for "confidentiality" surrounding the business, begging them to keep the project "very confidential" because he "could be in hot waters for doing this."

84. Dekovic continues to prepare for the launch of the Moonwalker line of products, which rightly belong to Nike, in early 2015. He has prepared cash flow

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spreadsheets, projected profit statements, identified and lined up retailers to carry the products, and developed the details of numerous different types of footwear and athletic wear, with their retail costs, unit costs, and projected quantities. Dekovic intends for the products to be marketed and sold to the same customer base to which Nike markets and sells its footwear products.

FIRST CLAIM FOR RELIEF

(Breach of Contract - All Defendants)

85. Nike realleges and incorporates by reference the allegations set forth in paragraphs 1 through 84.

86. Defendant Dekovic signed a Noncompete Agreement with Nike at the time and as a condition of his promotion to Design Director on February 7, 2012, which was a bona fide advancement within Nike. Dekovic also signed an Employee Invention and Secrecy Agreement ("Secrecy Agreement") on April 16, 2007, as a condition of his employment. The Noncompete and Secrecy Agreements were fully enforceable at the time of execution and remain so today.

87. At the time of and as a condition of his employment, Defendant Dolce signed a Noncompete Agreement and a Secrecy Agreement on October 3, 2005, which were fully enforceable at the time of execution and remain so today.

88. Defendant Miner signed a Noncompete Agreement at the time and as a condition of his promotion to Senior Designer on January 30, 2011, which was a bona fide advancement within Nike. As a condition of his employment, Miner signed a Secrecy Agreement on October 3, 2008. The Noncompete and Secrecy Agreements were fully enforceable at the time of execution and remain so today.

89. Section 1(a) of the each of the Designers' Noncompete Agreements includes a noncompete clause, under which each employee agreed as follows:

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> **During EMPLOYEE'S employment** by NIKE, under the terms of any employment contract or otherwise, **and for 1 year thereafter**, (the "Restriction Period"), **EMPLOYEE will not** directly or indirectly, own, manage, control, or participate in the ownership, management or control of, or be employed by, **consult for, or be connected in any manner with, any business engaged anywhere in the world in the athletic footwear, athletic apparel or sports equipment and accessories business**, or any other business which directly competes with NIKE or any of its parent, subsidiaries, or affiliated corporations (a "Competitor")...**including but not limited to: Adidas**. (emphasis added)

90. The Noncompete Agreements require Nike to compensate Defendants 50 percent of their salaries for the period of time that Nike elects to enforce the noncompetition restriction following employment. *Id.*, Section 1(d). However, the Agreements exclude any time during which Defendants are in breach of the noncompetition obligation from the one-year restriction period. *Id.* Although Nike is relieved of its compensation obligations in the event that Defendants breach their obligations, Nike is still paying the 50 percent portion of Defendants' salaries. *Id.*, Section 1(b).

91. Defendants have breached Section 1(a) of their Noncompete Agreements by consulting with, and publicly associating themselves with, Nike's competitor Adidas during and within one-year of the period of their employment with Nike.

92. Dekovic has further breached Section 1(a) of his Noncompete Agreement by managing, controlling, and participating in the ownership of the "Moonwalker" shoe and sportswear business, which is in the athletic footwear business and competes with Nike.

93. Under Section 6 of the Noncompete Agreements Defendants agreed that:

> **During the term of this Agreement and for a period of one (1) year thereafter, EMPLOYEE will not** directly or indirectly, **solicit**, divert or hire away (or attempt to solicit, divert of hire away) to or for himself or any other company or business organization, **any NIKE employee**, whether or not such employee is a full-time employee or temporary employee and whether or not such employment is pursuant to a written agreement or is at will or any independent contractor working for Nike. (emphasis added)

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94. Defendants have breached Section 6 of their Noncompete Agreements by recruiting each other to leave Nike and join Adidas.

95. Defendants have further breached Section 6 of their Noncompete Agreements by attempting to recruit and divert other designers employed by Nike, both through direct communications, and indirectly, through public announcements of their association with Adidas.

96. Section 3 of the Noncompete Agreements obligates Defendants to not disclose any "Protected Information," including Nike's Confidential Information defined above and any other sensitive, confidential, proprietary, and Trade Secret commercial information, to Nike's competitors or any other any third-parties. Section 3(a) defines "Protected Information" as:

> "Protected Information" shall mean **all proprietary information**, in whatever form and format, of NIKE and all information provided to NIKE by third parties which NIKE is obligated to keep confidential. **EMPLOYEE agrees that any and all information to which EMPLOYEE has access concerning NIKE projects and internal NIKE information is Protected Information**, whether in verbal form, machine-readable form, written or other tangible form, and whether designated as confidential or unmarked. Without limiting the foregoing, Protected Information includes trade secrets and competitively sensitive business or professional information (regardless of whether such information constitutes a trade secret) relating to NIKE's research and development activities, its intellectual property and the filing or pendency of patent applications, confidential techniques, methods, styles, designs, design concepts and ideas, customer and vendor lists, contract factory lists, pricing information, manufacturing plans, business and marketing plans or strategy, product development plants, product launch plans, financial information, sales information, methods of operation, manufacturing processes and methods, products, and personnel information. (emphasis added)

97. Pursuant to Section 3(c), Defendants agreed to safeguard Nike's Protected Information by agreeing as follows:

> **During the period of employment by NIKE and for a period of two (2) years thereafter, EMPLOYEE will hold in confidence and protect all Protected Information and will not, at any time, directly or indirectly, use any Protected Information for any purpose outside the scope of EMPLOYEE's employment with**

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> **NIKE or disclose any Protected Information to any third person** or organization without the prior written consent of NIKE. Specifically, but not by way of limitation, **EMPLOYEE WILL NOT EVER copy**, transmit, reproduce, summarize, quote, publish or make any commercial or other use whatsoever of **any Protected Information** without the prior written consent of NIKE. EMPLOYEE will also take reasonable security precautions and such other actions as may be necessary to insure that there is no use or disclosure, intentional or inadvertent, of Protected Information in violation of this Agreement. (emphasis added)

98. In addition, under Section 1 of the Secrecy Agreements, the designers each agreed during and after his employment not to use or disclose Nike's confidential information, which is defined to include "trade secrets, processes, products, machines....drawings...blueprints, notes, records...sketches, plans, photographs...designs, design concepts, business plans and marketing and sales information."

99. Defendants have breached Section 1 of their Secrecy Agreements and Section 3(c) of their Noncompete Agreements by misappropriating Nike's Protected Information. This includes, but is not limited to Dekovic's copying of the contents of his laptop hard drive and Dolce's emailing of confidential product information to his personal email account.

100. Defendants also intend to use and disclose Nike's Protected Information and Confidential Information as defined above and in the Noncompete and Secrecy Agreements to benefit Adidas in the future, in further breach of the Agreements.

101. Under Section 4 of the Noncompete Agreements, Defendants further agreed to return all Protected Information at the termination of their employment with Nike, including all forms of such information and any copies. Defendants further agreed under Section 4 that upon the conclusion of their employment, they would "deliver promptly to NIKE all confidential information of NIKE (including copies, reproductions, and translations thereof) which I have in my possession, custody, or control."

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102. Dekovic has separately breached Section 4 of his Noncompete Agreement by failing to return to Nike the copy of his laptop hard drive that he caused to be made on September 16, 2014 in Italy, six days before he resigned his employment at Nike.

103. Dolce has separately breached Section 4 of his Noncompete Agreement by failing to return to Nike the confidential design plans he emailed to his personal email account on September 19, 2014, three days before he resigned his employment at Nike.

104. Under Section 8 of his Secrecy Agreement, Dekovic agreed to "disclose promptly and in writing to Nike all inventions including improvements which are conceived or made by me during the term of my employment with Nike whether or not such inventions are assignable under this Agreement." Under Section 4 of the Secrecy Agreement, Dekovic further agreed "I hereby assign and agree to assign to Nike all rights, title and interest in and to inventions, including improvements, which are conceived or made by me during my employment term with Nike which relate in any way to the ... business...or products of Nike."

105. The designs of the Moonwalker shoes and sportswear are qualifying inventions under Dekovic's Secrecy Agreement.

106. Dekovic's failure to disclose the concept and designs of the Moonwalker shoes and sportswear to Nike and his failure to assign the rights and interest in those concepts and designs to Nike are breaches of the Secrecy Agreement.

107. Nike has performed all aspects of the Noncompete Agreements with respect to Dekovic, Dolce, and Miner, including paying each of them 50 percent of their Nike salaries during the applicable noncompete period.

108. Nike has performed all aspects of the Secrecy Agreements with respect to Dekovic, Dolce, and Miner.

109. Nike has suffered and will continue to suffer irreparable harm as a result of Defendants' breach of their Noncompete Agreements and Secrecy Agreements.

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110. Nike is entitled to temporary, preliminary, and permanent injunctive relief restraining and enjoining Dekovic, Dolce, and Miner, and all persons acting in concert with them, from directly or indirectly competing against Nike in violation of the Noncompete and Secrecy Agreements, including being employed by or connected with Adidas or working, collaborating, or having any contact whatsoever with Adidas or any competitor of Nike during the one-year period, as extended in accordance with Section 1(b) described below.

111. Nike is entitled to injunctive relief extending Defendants' noncompete period to a term of at least 18 months. Pursuant to Section 1(b) of the Designer Noncompete Agreements, Nike is entitled to extend the restrictive period for the time period during which the designers have been in breach of their agreements. Nike estimates that the period of time they were in breach prior to quitting was six months, making the total period for which they should be enjoined at least 18 months, as well as any additional time they remain in breach as shall be proven at trial.

112. Pursuant to Section 1(b) of the Designer Noncompete Agreements, the Defendants' breach of those agreements relieves Nike of its obligation to pay Defendants consideration under the agreements. Defendants' breach of those agreements further entitles Nike to reimbursement of the payments already made to Defendants under the Designer Noncompete Agreements during the period of time they remain in breach.

113. Nike has suffered and will continue to suffer irreparable harm as a result of Defendants' breaches of the Designer Noncompete and Secrecy Agreements. Nike is entitled to temporary, preliminary, and permanent injunctive relief restraining and Defendants, and all persons acting in concert with them, from directly or indirectly soliciting or attempting to solicit any Nike employee during the one-year period, as extended in accordance with Section 1(b) of the Designer Noncompete Agreements, as described in paragraph 30 above.

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114. The use and disclosure and threatened use and disclosure of Nike's confidential and Protected Information to Adidas or any other competitor has and will cause Nike irreparable harm.

115. Nike is entitled to temporary, preliminary, and permanent injunctive relief restraining and enjoining Defendants, and all persons acting in concert with them, from directly or indirectly using or disclosing its Protected Information and compelling Dekovic to return the copy of his laptop and any other documents he has retained in violation of his contract, and compelling Dolce to return any copies of the documents he improperly retained in violation of his contract.

116. Nike is entitled to a declaratory judgment that Dekovic has assigned all rights to the Moonwalker designs, concepts, shoes and all other intellectual property related to Moonwalker to Nike, and that Nike therefore owns the Moonwalker shoes and sportswear intellectual property and all business plans, designs, or documents related to the Moonwalker shoes and sportswear.

117. In addition, as a direct and proximate result of Defendants' breaches of their Noncompete and Secrecy Agreements, Nike has suffered damages in an amount to be proven at trial.

SECOND CLAIM FOR RELIEF

(Breach of Duty of Good Faith and Fair Dealing - All Defendants)

118. Nike realleges and incorporates by reference the allegations contained in paragraphs 1 through 117.

119. At all relevant times alleged herein, Defendants and Nike were parties to the Designer Noncompete and Secrecy Agreements. Each and every one of the Designer Noncompete and Secrecy Agreements contains an implied covenant of good faith, and fair dealing.

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120. Defendants have breached their duty of good faith and fair dealing in numerous ways, including, but not limited to, by consulting and conspiring to compete against Nike with a competitor while employed by Nike, by consulting with and for Adidas, by soliciting one another to compete with Nike and join Adidas, and by misappropriating, retaining, and failing to return Nike's Protected Information.

121. In addition, Dekovic breached his duty of good faith and fair dealing by actively working on a line of Moonwalker footwear and sportswear products that is competitive with Nike while employed by Nike.

122. Dekovic further breached his duty of good faith and fair dealing by inducing Nike to pay for his relocation to Italy in June 2014 under the pretenses that he planned to continue to be a Nike employee, when, in reality, he was in discussions to leave for Adidas.

123. Nike has suffered and will continue to suffer irreparable harm as a result of Defendants' breaches. Nike is entitled to temporary, preliminary, and permanent injunctive relief restraining and enjoining Defendants and all persons acting in concert with him from competing against Nike, soliciting Nike employees, and retaining or using Nike's Protected Information in violation of the Designer Agreements, and requiring Defendants to return all of Nike's Protected Information they have in their possession. Nike is entitled to temporary, preliminary, and permanent injunctive relief requiring Dekovic to assign to Nike his rights and interest in the Moonwalker shoes and sportswear.

124. In addition, as a direct and proximate result of Defendants' breaches of their duty to act in good faith, Nike has suffered damages in an amount to be proved at trial.

THIRD CLAIM FOR RELIEF

(Breach of Duty of Loyalty - All Defendants)

125. Nike realleges and incorporates by reference the allegations contained in paragraphs 1 through 124.

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126. Defendants owed Nike duties of loyalty while employees of Nike, requiring that they act at all times in Nike's interest and not take actions materially detrimental to Nike.

127. Defendants breached their duties of loyalty to Nike while they were still Nike employees by acting for their own benefit rather than Nike's, by among other things, actively conspiring with each other and by consulting with Adidas to form the "Brooklyn Creative Design Studio" and compete against Nike, by wrongfully retaining, using, or disclosing Nike's proprietary and confidential information in doing so, and by soliciting other Nike designers to leave Nike and join Adidas.

128. In addition, Dekovic breached his duty of loyalty by planning to develop, design, market and sell the Moonwalker shoes and sportswear independently and without giving Nike the opportunity to do so, and by misappropriating Nike's confidential and trade secret Protected Information in developing and designing the Moonwalker products.

129. Dekovic further breached his duty of loyalty by inducing Nike to pay for his relocation to Italy in June 2014 under the pretenses that he planned to continue to be a Nike employee, when, in reality, he was in discussions to leave for Adidas.

130. Nike has suffered and will continue to suffer irreparable harm as a result of Defendants' breach of duties of loyalty owed to Nike. Nike is entitled to temporary, preliminary and permanent injunctive relief restraining and enjoining Defendants and all persons acting in concert with them from misappropriating and using Nike's confidential protected information to Nike's detriment.

131. In addition, as a direct and proximate result of Defendants' breach of duties of loyalty owed to Nike, Nike has suffered damages in an amount to be proved at trial, including lost current and future profits or other damages resulting from Defendants' breaches or derived in any way from the use of any of Nike's confidential protected information.

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FOURTH CLAIM FOR RELIEF

(Misappropriation of Trade Secrets - All Defendants)

132. Nike realleges and incorporates by reference the allegations contained in paragraphs 1 through 131.

133. Nike's Confidential and Protected Information includes information related to current and future product designs; business plans; market analyses; product development, testing, and manufacturing techniques and strategies; and marketing plans for developing and marketing Nike's current and future sportswear products.

134. Nike's Confidential and Protected Information constitutes "trade secrets" under ORS 646.461(4) because that information derives independent economic value from not being generally known to the public or to persons who can obtain economic value from its disclosure or use, and is subject to reasonable efforts under the circumstances by Nike to maintain its secrecy.

135. During the course of the employment relationship between Nike and Defendants, Defendants were given access to Nike's trade secrets, and Defendants were under a duty to keep such information confidential, to refrain from using that information to Nike's detriment, and were required to return all such information to Nike upon termination of employment.

136. Defendants have misappropriated Nike's confidential trade secrets by obtaining that information by improper means, including by copying the materials from their Nike issued laptops onto personal devices or email accounts, which they retained after resigning from Nike, and by disclosing and using this information to compete against Nike and to plan and implement the "Brooklyn Creative Design Studio."

137. Defendants have failed to return to Nike any of the misappropriated Confidential Information and trade secrets.

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138. Nike has suffered and will continue to suffer irreparable harm due to Defendants' misappropriation of Nike's trade secrets. Nike is entitled to temporary, preliminary, and permanent injunctive relief restraining and enjoining Defendants and all persons acting in concert with them from using Nike's trade secrets, and requiring Defendants or anyone else given such information to return it to Nike.

139. In addition, as a direct and proximate result of Defendants' misappropriation of Nike's trade secrets, Nike has suffered damages in an amount to be proved at trial. On information and belief, Defendants' misappropriation was willful and malicious and Nike is entitled to punitive damages of twice the amount of actual damages suffered. Nike is also entitled to recover its attorneys' fees.

FIFTH CLAIM FOR RELIEF

(Tortious Interference with Current and Prospective Contractual and Economic Relations - All Defendants)

140. Nike realleges and incorporates by reference the allegations contained in paragraphs 1 through 139.

141. Nike has a legally protectable interest in preventing interference with its current and prospective contractual relationships with its employees, from which Nike derives significant economic benefit. Defendants were and are aware of Nike's contractual and economic relationships.

142. Defendants intentionally, and with an improper purpose and by improper means, interfered with Nike's current and prospective contractual relationships with its designer employees, including by publicly announcing their association with Adidas to help recruit other Nike designers, and by soliciting and targeting other Nike designers to leave Nike and come work for Adidas in violation of Defendants' non-solicitation agreements and duties of loyalty to Nike.

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143. Each Defendant further intentionally, and with an improper purpose and by improper means, interfered with Nike's contractual and prospective economic relationships with each of the other Defendants, including Nike's Noncompete, Nondisclosure, and Secrecy Agreements with each of the other Defendants, by inducing and conspiring with the other Defendants to leave Nike and join Adidas, misappropriating and misusing Nike's Protected Information in the process, in violation of their Noncompete, Secrecy and non-solicitation agreements and duties of loyalty to Nike.

144. Nike has suffered and will continue to suffer irreparable harm as a result of Defendants' intentional interference with Nike's contractual and prospective economic relationships. Nike is entitled to temporary, preliminary, and permanent injunctive relief restraining and enjoining Defendants, and all those acting in concert with them, from interfering with Nike's contractual and prospective economic relationships. Nike is further entitled to temporary, preliminary, and permanent injunctive relief restraining and enjoining Defendants and all persons acting in concert with them from directly or indirectly competing against Nike in violation of the Designer Agreements, and from using Nike's Protected Information to do so.

145. In addition, as a direct and proximate result of Defendants' intentional interference, Nike has suffered damages in an amount to be proven at trial.

SIXTH CLAIM FOR RELIEF

(Fraud in the Inducement - Against Dekovic)

146. Nike realleges and incorporates by reference the allegations contained in paragraphs 1 through 145.

147. In order to induce Nike to pay for his relocation to Italy in July 2014 to accommodate personal requirements related to his immigration status, Dekovic expressly and impliedly falsely represented to Nike that he would continue to remain employed at Nike and

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intentionally did not disclose that he , at that time, intended to leave Nike to work for Adidas.

148. Dekovic's conduct was outrageous. He specifically targeted Italy based on his belief that Nike's noncompete would be difficult to enforce in Italy. At the time Dekovic made these intentional misrepresentations and omissions, he in fact did not intend to remain employed at Nike. By July 2014, when he and his family received their all-expenses-paid move to Italy (where Dekovic's wife is from), Dekovic had already travelled to Nuremburg, Germany to meet with representatives from Adidas. Dekovic knew that if he revealed his plans to leave Nike for Adidas, Nike would not pay for his relocation to Italy.

149. Nike reasonably relied on Dekovic's representations and intentional omissions, and to its detriment, paid all the costs associated with relocating Dekovic and his family to Italy in an amount estimated to be approximately $50,000. Nike would not have paid the relocation costs but for Dekovic's misrepresentations.

150. As a consequence of Nike's reliance on Dekovic's representations and intentional omissions as set forth above, Nike has been damaged in an amount to be proven at trial, plus interest, but which is currently estimated to at least be $50,000.

SEVENTH CLAIM FOR RELIEF

(Conversion / Writ of Replevin - Against Dekovic and Dolce)

151. Nike realleges and incorporates herein the factual allegations set out in paragraphs 1 through 150.

152. The Nike Protected Information on the external drive containing the copy of Dekovic's Nike laptop is an intangible chattel belonging solely and exclusively to Nike.

153. By keeping and refusing to return Nike's Protected Information following the termination of his employment, Dekovic has intentionally exercised dominion and control over Nike's property.

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154. Dekovic's interference with Nike's rights to control its Protected Information is serious enough that he may justly be required to pay Nike the full value of the Protected Information.

155. As a direct and proximate result of Dekovic's conversion of its Protected Information, Nike has suffered damages, which at this time are simply incalculable.

156. Nike is entitled to temporary, preliminary, and permanent injunctive relief—and/or in the alternative a writ of replevin—restraining and enjoining Dekovic, and all those acting in concert with him, from possessing or using Nike's Protected Information, and requiring that he immediately return all Nike Protected Information in his possession or control.

157. The Nike Protected Information in the personal email account of Dolce is an intangible chattel belonging solely and exclusively to Nike.

158. By keeping and refusing to return Nike's Protected Information following the termination of his employment, Dolce has intentionally exercised dominion and control over Nike's property.

159. Dolce's interference with Nike's rights to control its Protected Information is serious enough that he may justly be required to pay Nike the full value of the Protected Information.

160. As a direct and proximate result of Dolce's conversion of its Protected Information, Nike has suffered damages, which at this time are simply incalculable.

161. Nike is entitled to temporary, preliminary, and permanent injunctive relief—and/or in the alternative a writ of replevin—restraining and enjoining Dolce, and all those acting in concert with him, from possessing or using Nike's Protected Information, and requiring that he immediately return all Nike Protected Information in his possession or control.

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EIGHTH CLAIM FOR RELIEF

(Civil Conspiracy – All Defendants)

162. Nike realleges and incorporates by reference the allegations contained in paragraphs 1 through 161.

163. Through their conduct described above Defendants acted in concert and pursuant to the common design and scheme to pursue an unlawful object or course of action to be accomplished by unlawful means, with the primary and common purpose of competing against Nike, to the detriment of Nike.

164. Defendants committed one or more unlawful acts in furtherance of the civil conspiracy, including, but not limited to, breach of contract, interference with contract and economic relations, misappropriation of trade secrets and confidential information, and breaching (or aiding and assisting in breaching) of contractual and fiduciary duties.

165. As a direct and proximate result of these unlawful acts, Nike has suffered damages in an amount to be proven at trial.

166. Because Defendants acted in concert with each other to accomplish these unlawful acts as set forth above, each Defendant is jointly and severally liable to Nike for all damages resulting from any and all acts committed in furtherance of their civil conspiracy.

Punitive Damages

167. Nike intends to move pursuant to ORS 31.725 to add a claim for punitive damages against each Defendant for their willful breaches of their duty of loyalty to Nike (Count III), their intentional interference with Nike's contracts and prospective economic relationships (Count V), and Dekovic's fraud in the inducement (Count VII).

WHEREFORE, Nike prays for relief as follows:

1. An order temporarily, preliminarily, and permanently enjoining Defendants from:

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a. using or benefiting, directly or indirectly, from the use of Nike's Confidential Information;

b. publicly associating or connecting themselves with Adidas for a one-year period, including on the internet, on any social media accounts, or in the traditional press;

c. pursuing any other footwear design opportunities whether independently or in conjunction with Adidas or any other Nike competitor for a reasonable period of time;

d. from negotiating with any investors, selling any products, or otherwise launching any business venture relating to the Moonwalker shoe and sportswear designs;

2. An order requiring Defendants to:

a. destroy and to certify under oath the destruction of all materials derived in any way, directly or indirectly, in whole or in part, from Nike's Confidential Information, including the strategic blueprint for the Brooklyn Creative Design Studio and any related materials;

b. return to Nike any Nike Confidential Information in their possession, custody, or control and to disclose all persons and/or entities to whom Defendants disclosed such information;

c. to produce their personal devices and passwords for forensic examination, at Nike's expense, by an independent forensic examiner;

d. to disgorge all unjust enrichment as a result of their taking and use of Nike's Confidential Information;

3. An order imposing a constructive trust on, and requiring a detailed accounting of, all revenues derived from the use of Nike's Confidential Information;

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4. A declaratory judgment that any Moonwalker-related designs, business plans, or other information were assigned to Nike under Dekovic's Secrecy Agreement and an order requiring Dekovic to provide Nike with all such documents or information;

5. A declaratory judgment that Defendants breached their noncompete obligations to Nike under the Noncompete Agreements from April 2014 to the present, and that:

   a. The Restrictive Period in those agreements is therefore extended for a period of time from April 2014 through the date of the Court's Order;

   b. Nike is not obligated to continue to pay severance under the Designer Noncompete Agreements and defendants are required to pay Nike back for compensation received under those agreements to-date;

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6. An award of economic damages in an amount to be determined at trial.

7. An award of costs and attorneys' fees; and

8. All other relief the Court deems fit and proper.

DATED: December 8, 2014.

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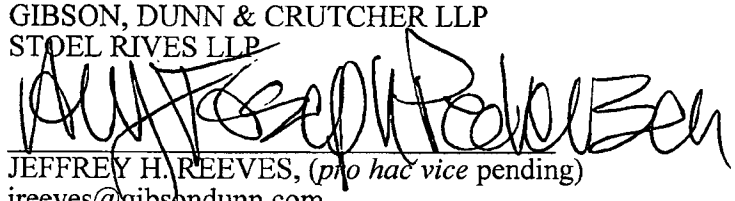

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